



US Army Corps
of Engineers
Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice

Number: 200400685

Date: May 23, 2006

Comments Due: June 6, 2006

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application to construct the Feather River - Bear River - Western Pacific Interceptor Canal (WPIC) Levee Improvements project, which would result in permanent impacts to approximately 11.4 acres, and temporary impacts to approximately 13.7 acres of waters of the United States, including wetlands, that are tributary or adjacent to tributaries of the Feather River, and the removal of 227.9 acres of orchards within the Bear River floodway. This notice is to inform interested parties of the proposed activity and to solicit comments. This notice may also be viewed at the Corps web site at <http://www.spk.usace.army.mil/regulatory.html>.

AUTHORITY: This application is being evaluated under Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States.

APPLICANT: Charles K. McClain
Three Rivers Levee Improvement Authority
915 Eighth Street, Suite 115
Marysville, California 95901
530-749-7575

LOCATION: The project site is bordered by the WPIC to the east, the Bear River to the South, the Feather River to the west, and Feather River Boulevard to the west, in southern Yuba County. The site can be seen on the Nicolaus, California and Olivehurst, California, 7.5 minute USGS Topographic Quadrangles.

PROJECT DESCRIPTION: The purpose of the proposed project is to enhance flood protection to properties within southern Yuba County. The applicant proposes to remedy existing flood conveyance deficiencies in Yuba County by improving the existing Bear River and WPIC levees. The project will result in direct impacts to 11.4 acres of waters of the United States and indirect impacts to 13.7 acres of waters of the United States in addition to the removal of 293 acres of orchard within the Bear River floodway, to construct a 2-mile setback levee, reinforce the WPIC levee, construct associated stormwater detention basins north of the Bear River, and to restore the setback levee area.

The project has changed since the first public notice was issued on March 23, 2005. Major modifications to the project are listed below. Any new information about the project's impacts regarding endangered species and cultural resources is summarized in the sections to follow.

1. The Authority is now proposing to simultaneously degrade the existing Bear River levee and use the fill material to finish the construction of the setback levee. Excavation of fill material

from the existing levee would start in early July and is anticipated to end by September 2006. The removal of the existing levee during the construction of the new setback levee is likely to significantly reduce the flood protection in southern Yuba County during the window of construction.

2. Direct impacts to waters of the United States has increased from 11.0 acres to 11.4 acres. Indirect impacts to waters of the United States has increased from 12.5 acres to 13.7 acres.
3. Stage 1 and Stage 2 of the project will be combined under one individual permit. Stage 1 involves the construction of the Bear River setback levee and reinforcement of the WPIC. Stage 2 involves the degradation of the existing Bear River levee and restoration of the Bear River floodway.

ADDITIONAL INFORMATION:

Environmental Setting. The project area comprises 934 acres primarily used for agriculture. Approximately 19.79 acres of wetlands and 369.91 acres of other waters (including the Bear River floodway) are also located within the project area. Wetlands consist of naturally occurring emergent wetlands (0.45 acre), seasonal wetlands (5.07 acres), seasonal ponds (4.07 acres), riparian scrub (1.77 acres), riparian woodlands (5.5 acres), and willow scrub (2.93 acres) located in depressional areas near the levees and along drainages. Other waters consist of agricultural waterways and drainages (44.85 acres), valley oak riparian forests (73.27 acres), and orchards (251.79 acres). The latter two habitats exist within the Bear River floodway below ordinary high water. The Corps verified the wetland delineation for the project on May 18, 2005.

Current land uses to the north is predominantly agriculture. Future development in this area as described in the Plumas Lake Specific Plan includes medium density residential and associated parks, schools and shopping areas within project area. Construction has already started on homes located north of Feather River Boulevard and east of Highway 70 in the Plumas Lake area. The project would provide increased flood protection for these and future developments in southern Yuba County.

Alternatives. The applicant provided information concerning project alternatives in the Draft Environmental Impact Report (September 2004) and additional alternatives information in July 2005. The alternatives included a northern setback levee alignment, a levee raise and a levee strengthening alternative (without the setback levee), and the no-project alternative.

Mitigation. The applicant has proposed and the Corps has accepted a combination of onsite and offsite preserves to function as compensatory mitigation for the project. The onsite preserve is situated between the setback levee and Bear River. The area will be restored by removing the existing orchard and planting riparian species. Impacts to waters of the United States will be mitigated onsite through the restoration of 115 acres of cottonwood and willow riparian habitat, 95 acres of open grassland, 54 acres of riparian scrub habitat, 335 acres of valley oak woodland, 56 acres of shaded riverine aquatic habitat (Bear River), 12.2 acres of emergent wetland, 5.1 acres of open water channel, and 0.1 acres of riparian woodland.

The applicant has also proposed to preserve the 695 acre Daley Ranch as a wetland preserve near Palermo in Butte County. The site contains approximately 62 acres of waters of the United States, including vernal pools, seasonal wetlands, and a 7 acre clay flat wetland, that will be preserved in perpetuity under a conservation easement. The applicant has also proposed to create 150 acres of giant garter snake habitat (open water, perennial marsh, and uplands) adjacent to the Sutter Bypass in Sutter County.

OTHER GOVERNMENTAL AUTHORIZATIONS: Water quality certification from the Central Valley Regional Water Quality Control Board, as required under Section 401 of the Clean Water Act, is required for this project. The applicant has received certification for the project levee improvements project.

HISTORIC PROPERTIES: Initial site testing, pedestrian surveys, and record searches were made by a qualified archaeologist before the project started in accordance with our district guidance. During the first month of constructing the setback levee in August and September of 2005, three archaeological finds (including human remains) were made and work stopped in those areas until the State Historic Preservation Officer (SHPO) and the Corps archaeologists could evaluate the sites. In November 2005, the Authority submitted a treatment plan and consultation was initiated with the SHPO. The SHPO concurred with the Corps that the archaeological sites found were not eligible for the National Register of Historic Places. In addition, the SHPO concurred that the historic Western Pacific Railroad, which was already found to be eligible for the register would not be affected by the proposed undertaking.

ENDANGERED SPECIES: The Corps is currently consulting with the U.S. Fish and Wildlife Service and National Marine Fisheries Service to amend the biological opinions for the project pursuant Section 7 of the Endangered Species Act. The project may adversely affect federally-listed endangered or threatened species or their critical habitat. The Corps has already initiated consultation with the U.S. Fish and Wildlife Service that the project may affect the Federally-listed giant garter snake, valley elderberry longhorn beetle, vernal pool tadpole shrimp, vernal pool fairy shrimp, Sacramento Orcutt grass, slender Orcutt grass, Colusa grass, Contra Costa grass, Contra Costa goldfields, and designated critical habitat.

The above determinations are based on information provided by the applicant and our preliminary review.

EVALUATION FACTORS: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the described activity will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. The activity's impact on the public interest will include application of the Section 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230).

The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

SUBMITTING COMMENTS: Written comments, referencing Public Notice 200400685, must be submitted to the office listed below on or before June 6, 2006:

Andrea Jones, Project Manager
US Army Corps of Engineers, Sacramento District
Sacramento Valley Office
1325 J Street, Room 1480
Sacramento, California 95814-2922
Email: Andrea.J.Jones@usace.army.mil

The Corps is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant or the Corps' project manager Andrea Jones, 916-557-7745, Andrea.J.Jones@usace.army.mil.

Attachments:

- A - Vicinity Map
- B - Project Plan View
- C - Levee Design and Slurry Wall Cross-Sections, Potential Borrow Sites, and Detention Basin Design
- D - Locations of Wetlands and Other Waters of the United States
- E - Setback Levee Onsite Restoration Area
- F - Daley Ranch Offsite Preserve
- G - Tule Basin Offsite Preserve